



March 23, 2005

ENGROSSED SENATE BILL No. 77

DIGEST OF SB 77 (Updated March 21, 2005 5:54 pm - DI 107)

Citations Affected: IC 9-13; IC 9-22; IC 32-33.

Synopsis: Mechanic's liens on towed vehicles and disposal of abandoned vehicles. Allows an unpaid provider of towing services to obtain a mechanic's lien on a towed vehicle and sell the vehicle. Raises the market value limit below which a public officer is authorized to dispose of an abandoned vehicle or parts at a towing service. Requires a towing service to wait 30 days before disposing of an abandoned vehicle located on its premises, and specifies a procedure for notice to the registered owner of the abandoned vehicle. Makes conforming amendments.

Effective: Upon passage; July 1, 2005.

Young R Michael, Lanane

(HOUSE SPONSORS — HINKLE, DAVIS, BUELL, MURPHY)

January 4, 2005, read first time and referred to Committee on Judiciary.
January 20, 2005, reported favorably — Do Pass.
January 24, 2005, read second time, ordered engrossed. Engrossed.
January 25, 2005, read third time, passed. Yeas 46, nays 0.

HOUSE ACTION

March 7, 2005, read first time and referred to Committee on Judiciary.
March 22, 2005, amended, reported — Do Pass.

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ES 77—LS 6360/DI 96+



March 23, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 77

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-13-2-174.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 174.5. "Storage yard" for**
4 **purposes of IC 9-22-1, has the meaning set forth in IC 9-22-1-3.5.**
5 SECTION 2. IC 9-22-1-3.5 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
7 UPON PASSAGE]: **Sec. 3.5. As used in this chapter, "storage yard"**
8 **means a storage facility or a towing service used for the removal**
9 **and storage of abandoned vehicles or parts.**
10 SECTION 3. IC 9-22-1-13 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) If in the
12 opinion of the officer the market value of an abandoned vehicle or parts
13 determined ~~under~~ **in accordance with** section 12 of this chapter is less
14 than:
15 (1) ~~one~~ **five** hundred dollars (~~\$100~~); (**\$500**); or
16 (2) in a municipality that has adopted an ordinance under
17 subsection (b), the amount established by the ordinance;

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the officer shall immediately dispose of the vehicle to ~~an automobile~~
~~scrapyard~~; **a towing service**. A copy of the abandoned vehicle report
 and photographs relating to the abandoned vehicle shall be forwarded
 to the bureau. **The towing service may dispose of the abandoned**
vehicle not less than thirty (30) days after the date on which the
towing service removed the abandoned vehicle. The public agency
 disposing of the vehicle shall retain the original records and
 photographs for at least two (2) years.

(b) The legislative body of a municipality (as defined in
 IC 36-1-2-11) may adopt an ordinance that establishes the market value
 below which an officer may dispose of a vehicle or parts under
 subsection (a). However, the market value established by the ordinance
 may not be more than ~~five seven~~ hundred ~~fifty~~ dollars ~~(\$500)~~; **(\$750)**.

SECTION 4. IC 9-22-1-14 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) If in the
 opinion of the officer the market value of the abandoned vehicle or
 parts determined ~~under in accordance with~~ section 12 of this chapter
 is at least:

(1) ~~one five~~ hundred dollars ~~(\$100)~~; **(\$500)**; or

(2) in a municipality that has adopted an ordinance under section
 13(b) of this chapter, the amount established by the ordinance;
 the officer, before placing a notice tag on the vehicle or parts, shall
 make a reasonable effort to ascertain the person who owns the vehicle
 or parts or who may be in control of the vehicle or parts.

(b) After seventy-two (72) hours, the officer shall require the
 vehicle or parts to be towed to a storage ~~area~~; **yard or towing service**.

SECTION 5. IC 9-22-1-16 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) If after
 seventy-two (72) hours the person who owns a vehicle believed to be
 abandoned on private property that the person owns or controls,
 including rental property, has not removed the vehicle from the private
 property, the person who owns or controls the private property may
 have the vehicle towed from the private property. The towing operator
 shall do the following:

(1) Contact the bureau to obtain the name and address of the
 person who owns the vehicle.

(2) ~~Deliver~~; **Send**, by certified mail, a copy of the information
 contained in the notice required under section 15 of this chapter
 to the person who owns the vehicle. The notice required by this
 subdivision must be ~~given~~ **mailed to the person who owns the**
vehicle according to the records of the bureau not later than
 five (5) business days after ~~the vehicle is removed~~; **receipt of the**

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information in subdivision (1) from the bureau.

(b) Notwithstanding subsection (a), in an emergency situation a vehicle may be removed immediately. As used in this subsection, "emergency situation" means that the presence of the abandoned vehicle interferes physically with the conduct of normal business operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.

SECTION 6. IC 9-22-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Within seventy-two (72) hours after removal of an abandoned vehicle to a storage ~~area~~ **yard or towing service** under section 13, 14, or 16 of this chapter, the public agency or towing operator shall prepare and forward to the bureau an abandoned vehicle report containing a description of the vehicle, including the following information concerning the vehicle:

- (1) The make.
- (2) The model.
- (3) The identification number.
- (4) The number of the license plate.

(b) The public agency or towing operator shall request that the bureau advise the public agency or towing operator of the name and most recent address of the person who owns or holds a lien on the vehicle.

(c) Notwithstanding section 4 of this chapter, if the public agency or towing operator fails to notify the bureau of the removal of an abandoned vehicle within seventy-two (72) hours after the vehicle is removed as required by subsection (a), the public agency or towing operator:

- (1) may not initially collect more in reimbursement for the costs of storing the vehicle than the cost incurred for storage for seventy-two (72) hours; and
- (2) may collect further reimbursement under this chapter only for additional storage costs incurred after notifying the bureau of the removal of the abandoned vehicle.

SECTION 7. IC 9-22-1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. The following are not liable for loss or damage to a vehicle or parts occurring during the removal, storage, or disposition of a vehicle or parts under this chapter:

- (1) A person who owns, leases, or occupies property from which an abandoned vehicle or parts are removed.
- (2) A public agency.

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(3) A towing service.

(4) An automobile scrapyard.

(5) A storage yard.

SECTION 8. IC 9-22-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) An individual, a firm, a limited liability company, or a corporation that performs labor, furnishes materials or storage, or does repair work on a motor vehicle, trailer, semitrailer, or recreational vehicle at the request of the person who owns the ~~motor~~ vehicle has a lien on the vehicle to the reasonable value of the charges for the labor, materials, storage, or repairs.

(b) An individual, a firm, a partnership, a limited liability company, or a corporation that provides towing services for a motor vehicle, trailer, semitrailer, or recreational vehicle at the request of:

(1) the person who owns the motor vehicle, trailer, semitrailer, or recreational vehicle; or

(2) an individual, a firm, a partnership, a limited liability company, or a corporation on whose property an abandoned motor vehicle, trailer, semitrailer, or recreational vehicle is located;

has a lien on the vehicle for the reasonable value of the charges for the towing services and other related costs. An individual, a firm, a partnership, a limited liability company, or a corporation that obtains a lien for an abandoned vehicle under subdivision (2) must comply with IC 9-22-1-16, IC 9-22-1-17, and IC 9-22-1-19.

~~(b)~~ (c) If:

(1) the charges made under subsection (a) **or (b)** are not paid; and
(2) the motor vehicle, trailer, semitrailer, or recreational vehicle is not claimed;

within thirty (30) days from the date on which the ~~motor~~ vehicle was left in **or came into** the possession of the individual, firm, limited liability company, or corporation for repairs, storage, **towing**, or the furnishing of materials, the individual, firm, limited liability company, or corporation may advertise the vehicle for sale. The vehicle may not be sold before fifteen (15) days after the date the advertisement required by subsection ~~(c)~~ **(d)** has been placed or after notice required by subsection ~~(d)~~ **(e)** has been sent, whichever is later.

~~(c)~~ **(d)** Before a vehicle may be sold under subsection ~~(b)~~ **(c)**, an advertisement must be placed in a newspaper of general circulation printed in the English language in the city or town in which the lienholder's place of business is located. The advertisement must contain at least the following information:

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(1) A description of the vehicle, including make, type, and manufacturer's identification number.

(2) The amount of the unpaid charges.

(3) The time, place, and date of the sale.

~~(d)~~ (e) In addition to the advertisement required under subsection ~~(c)~~; (d), the person who holds the mechanic's lien must:

(1) notify the person who owns the ~~motor~~ vehicle and any other person who holds a lien of record at the person's last known address by certified mail, return receipt requested; or

(2) if the vehicle is an abandoned motor vehicle, provide notice as required under subdivision (1) if the location of the owner of the motor vehicle or a lienholder of record is determined by the bureau in a search under IC 9-22-1-20;

that the vehicle will be sold at public auction on a specified date to satisfy the lien imposed by this section.

~~(e)~~ (f) A person who holds a lien of record on a vehicle subject to sale under this section may pay the storage, repair, **towing**, or service charges due. If the person who holds the lien of record elects to pay the charges due, the person is entitled to possession of the vehicle and becomes the holder of the mechanic's lien imposed by this section.

~~(f)~~ (g) If the person who owns a vehicle subject to sale under this section does not claim the vehicle and satisfy the lien on the vehicle, the vehicle may be sold at public auction to the highest and best bidder for cash. A person who holds a mechanic's lien under this section may purchase a ~~motor~~ vehicle subject to sale under this section.

~~(g)~~ (h) A person who holds a mechanic's lien under this section may deduct and retain the amount of the lien and the cost of the advertisement required under subsection ~~(c)~~ (d) from the purchase price received for a ~~motor~~ vehicle sold under this section. After deducting from the purchase price the amount of the lien and the cost of the advertisement, the person shall pay the surplus of the purchase price to the person who owns the ~~motor~~ vehicle if the person's address or whereabouts is known. If the address or whereabouts of the person who owns the vehicle is not known, the surplus of the purchase price shall be paid over to the clerk of the circuit court of the county in which the person who holds the mechanic's lien has a place of business for the use and benefit of the person who owns the vehicle.

~~(h)~~ (i) A person who holds a mechanic's lien under this section shall execute and deliver to the purchaser of a vehicle under this section a sales certificate in the form designated by the bureau, setting forth the following information:

(1) The facts of the sale.

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(2) The vehicle identification number.

(3) The certificate of title if available.

(4) A certificate from the newspaper showing that the advertisement was made as required under subsection ~~(c)~~: **(d)**.

Whenever the bureau receives from the purchaser an application for certificate of title accompanied by these items, the bureau shall issue a certificate of title for the vehicle under IC 9-17.

SECTION 9. IC 32-33-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A person engaged in:

(1) **towing**, repairing, storing, servicing, or furnishing supplies or accessories for motor vehicles, airplanes, construction machinery and equipment, and farm machinery; or

(2) maintaining a motor vehicle garage, an airport or repair shop for airplanes, or a repair shop or servicing facilities for construction machinery and equipment and farm machinery;

has a lien on any motor vehicle or airplane or any unit of construction machinery and equipment or farm machinery **towed**, stored, repaired, serviced, or maintained for the person's reasonable charges for the **towing**, repair work, storage, or service, including reasonable charges for labor, for the use of tools, machinery, and equipment, and for all accessories, materials, gasoline, oils, lubricants, and other supplies furnished in connection with the **towing**, repair, storage, servicing, or maintenance of the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery.

SECTION 10. IC 32-33-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A person seeking to acquire a lien upon a motor vehicle, an airplane, a unit of construction machinery and equipment, or farm machinery, whether the claim to be secured by the lien is then due or not, must file in the recorder's office of the county where:

(1) the **towing**, repair, service, or maintenance work was performed; or

(2) the storage, supplies, or accessories were furnished;

a notice in writing of the intention to hold the lien upon the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery for the amount of the person's claim.

(b) A notice filed under subsection (a) must specifically state the amount claimed and give a substantial description of the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery upon which the lien is asserted.

(c) Any description in a notice of intention to hold a lien filed under subsection (a) is sufficient if by the description the motor vehicle,

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1 airplane, unit of construction machinery and equipment, or farm
2 machinery can be identified.

3 (d) A notice under subsection (a) must be filed in the recorder's
4 office not later than sixty (60) days after the:

5 (1) performance of the **towing or** work; or ~~the~~

6 (2) furnishing of the storage, supplies, accessories, or materials.

7 SECTION 11. **An emergency is declared for this act.**

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SENATE MOTION

Madam President: I move that Senator Lanane be added as coauthor of Senate Bill 77.

YOUNG R MICHAEL

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 77, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 77 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 77, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-13-2-174.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 174.5. "Storage yard" for purposes of IC 9-22-1, has the meaning set forth in IC 9-22-1-3.5.**

SECTION 2. IC 9-22-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. As used in this chapter, "storage yard" means a storage facility or a towing service used for the removal and storage of abandoned vehicles or parts.**

SECTION 3. IC 9-22-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) If in the opinion of the officer the market value of an abandoned vehicle or parts determined ~~under in accordance with~~ section 12 of this chapter is less than:

(1) ~~one five~~ hundred dollars (~~\$100~~); **(\$500)**; or

(2) in a municipality that has adopted an ordinance under subsection (b), the amount established by the ordinance;

the officer shall immediately dispose of the vehicle to ~~an automobile scrapyard~~: **a towing service**. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the bureau. **The towing service may dispose of the abandoned vehicle not less than thirty (30) days after the date on which the towing service removed the abandoned vehicle.** The public agency disposing of the vehicle shall retain the original records and photographs for at least two (2) years.

(b) The legislative body of a municipality (as defined in IC 36-1-2-11) may adopt an ordinance that establishes the market value below which an officer may dispose of a vehicle or parts under subsection (a). However, the market value established by the ordinance may not be more than ~~five seven~~ hundred ~~fifty~~ dollars (~~\$500~~); **(\$750)**.

SECTION 4. IC 9-22-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) If in the opinion of the officer the market value of the abandoned vehicle or parts determined ~~under in accordance with~~ section 12 of this chapter

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is at least:

(1) ~~one~~ **five** hundred dollars ~~(\$100); (\$500);~~ or

(2) in a municipality that has adopted an ordinance under section 13(b) of this chapter, the amount established by the ordinance; the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts.

(b) After seventy-two (72) hours, the officer shall require the vehicle or parts to be towed to a storage ~~area~~ **yard or towing service**.

SECTION 5. IC 9-22-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) If after seventy-two (72) hours the person who owns a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, has not removed the vehicle from the private property, the person who owns or controls the private property may have the vehicle towed from the private property. The towing operator shall do the following:

(1) Contact the bureau to obtain the name and address of the person who owns the vehicle.

(2) ~~Deliver;~~ **Send**, by certified mail, a copy of the information contained in the notice required under section 15 of this chapter to the person who owns the vehicle. The notice required by this subdivision must be ~~given~~ **mailed to the person who owns the vehicle according to the records of the bureau** not later than five (5) business days after ~~the vehicle is removed;~~ **receipt of the information in subdivision (1) from the bureau.**

(b) Notwithstanding subsection (a), in an emergency situation a vehicle may be removed immediately. As used in this subsection, "emergency situation" means that the presence of the abandoned vehicle interferes physically with the conduct of normal business operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.

SECTION 6. IC 9-22-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Within seventy-two (72) hours after removal of an abandoned vehicle to a storage ~~area~~ **yard or towing service** under section 13, 14, or 16 of this chapter, the public agency or towing operator shall prepare and forward to the bureau an abandoned vehicle report containing a description of the vehicle, including the following information concerning the vehicle:

(1) The make.

(2) The model.

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(3) The identification number.

(4) The number of the license plate.

(b) The public agency or towing operator shall request that the bureau advise the public agency or towing operator of the name and most recent address of the person who owns or holds a lien on the vehicle.

(c) Notwithstanding section 4 of this chapter, if the public agency or towing operator fails to notify the bureau of the removal of an abandoned vehicle within seventy-two (72) hours after the vehicle is removed as required by subsection (a), the public agency or towing operator:

(1) may not initially collect more in reimbursement for the costs of storing the vehicle than the cost incurred for storage for seventy-two (72) hours; and

(2) may collect further reimbursement under this chapter only for additional storage costs incurred after notifying the bureau of the removal of the abandoned vehicle.

SECTION 7. IC 9-22-1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. The following are not liable for loss or damage to a vehicle or parts occurring during the removal, storage, or disposition of a vehicle or parts under this chapter:

(1) A person who owns, leases, or occupies property from which an abandoned vehicle or parts are removed.

(2) A public agency.

(3) A towing service.

(4) An automobile scrapyard.

(5) A storage yard."

Page 4, after line 28, begin a new paragraph and insert:

"SECTION 11. **An emergency is declared for this act.**".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 77 as printed January 21, 2005.)

FOLEY, Chair

Committee Vote: yeas 11, nays 0.

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